

When recorded mail to:

Name: Carpenter, Hazlewood, Delgado & Bolen, PLC

Address: 1400 East Southern Avenue, Suite 400

City/State/Zip: Tempe, Arizona 85282

OFFICIAL RECORDS OF  
MARICOPA COUNTY RECORDER  
HELEN PURCELL  
2015-0087528 02/11/15 11:00 AM  
PAPER RECORDING

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**CAPTION HEADING:**

**FIRST AMENDMENT TO THE DECLARATION OF HORIZONTAL  
PROPERTY REGIME AND DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR CIRCLE TREE CONDOMINIUMS**

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**DO NOT REMOVE**

**This is part of the official document.**

**WHEN RECORDED RETURN TO:**

Carpenter, Hazlewood, Delgado & Bolen, PLC  
1400 East Southern Avenue, Suite 400  
Tempe, Arizona 85282

**FIRST AMENDMENT TO  
THE DECLARATION OF HORIZONTAL PROPERTY REGIME AND  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
CIRCLE TREE CONDOMINIUMS**

This First Amendment to the Declaration of Horizontal Property Regime and Declaration of Covenants, Conditions and Restrictions for Circle Tree Condominiums (the "First Amendment") is made as of this 9<sup>th</sup> day of February, 2015, by the Circle Tree Owners Association, an Arizona nonprofit corporation (the "Association").

**RECITALS**

**WHEREAS;** that certain Declaration of Horizontal Property Regime and Declaration of Covenants, Conditions and Restrictions for Circle Tree Condominiums (the "Original Declaration") was recorded on April 21, 1981 at No. 1981-0128369 in the official records of the Maricopa County Recorder;

**WHEREAS;** the Original Declaration was restated by the Restated Declaration of Horizontal Property Regime and Declaration of Covenants, Conditions and Restrictions for Circle Tree Condominiums (the "First Restated Declaration") recorded on December 14, 1981 at No. 1981-0404441 in the official records of the Maricopa County Recorder;

**WHEREAS;** the First Restated Declaration was again restated by the Declaration of Horizontal Property Regime and Declaration of Covenants, Conditions and Restrictions for Circle Tree Condominiums (the "Second Restated Declaration") recorded on June 29, 1983 at No. 1983-0252643 in the official records of the Maricopa County Recorder;

**WHEREAS;** the Second Restated Declaration was again restated by the Restated Declaration of Horizontal Property Regime and Declaration of Covenants, Conditions and Restrictions for Circle Tree Condominiums (the "Third Restated Declaration," collectively referred to with the Original Declaration, First Restated Declaration, and Second Restated Declaration as the "Declaration") recorded on March 31, 1998 at No. 1998-0249158 in the official records of the Maricopa County Recorder;

**WHEREAS;** A.R.S. §13-3821 et seq. was adopted on June 1, 1996 (the “Mandatory Registration Law”);

**WHEREAS;** the Mandatory Registration Law requires certain individuals to register with the State of Arizona as a sex offender;

**WHEREAS;** the Association has determined that an amendment of the Declaration is prudent and necessary to address occupancy of Units in the Association by certain registrants obligated to register pursuant to A.R.S. §13-3821(A) and individuals with certain criminal histories;

**WHEREAS;** the Association has determined that registered sexual or violent offenders who are classified as Level Two or Level Three offenders (“Registrants”) and individuals convicted of a felony within seven (7) years of potential commencement of occupancy (“Convicted Felons”) present an unreasonable danger to the Owners and Occupants of the Association due to their access to the Common Elements of the Association to which all Owners and Occupants have shared access and the fact that Owners and Occupants must travel within the community to enter and exit the Association and to use the Common Elements within the community, both of which expose the Owners, Occupants, and others, particularly children, to contact with the Registrant/Convicted Felon on a frequent and continuing basis.

**WHEREAS;** the Association has concluded that such potential exposure, in light of Arizona law’s recognition of the serious danger posed by Registrants and Convicted Felons, warrants all Registrants and Convicted Felons be prohibited from permanently or temporarily residing or occupying any Unit in the Association;

**WHEREAS;** the Declaration at Section 24 provides that the Declaration may be amended only by an instrument in writing signed by at least three fourths (3/4) in interest of the Owners and acknowledged.

### **AMENDMENT**

**NOW, THEREFORE;** the Declaration is amended as follows, to add the following new Section 17.1 to the Use and Occupancy Restrictions. All capitalized terms in this First Amendment shall have the same meaning as set forth in the Declaration unless otherwise defined herein.

#### **17.1 Sex Offender and Other Criminal Offender Restriction.**

17.1.1 Every Owner, Occupant, and resident of any Unit in the Association, including, but not limited to those who own, rent, or lease, must submit information, to the extent permitted by Arizona law, sufficient to run a background check for the

enforcement of this Section 17.1 prior to residing in or occupying any Unit in the Association for any length or period of time.

17.1.2 No Registrant, or any other similar sexual or violent offender required to register with the government of another state or political subdivision of another state, or Convicted Felon may permanently or temporarily reside in or occupy any Unit in the Association for any length or period of time, regardless if they own, rent, lease, or share/room a Unit with such Registrant or Convicted Felon. In other words, all Registrants and Convicted Felons as defined herein are strictly prohibited from ever occupying a Unit within the Association.

17.1.3 If a Registrant or Convicted Felon resides in or occupies any Unit within the Association, the Owner of such Unit must immediately cause the Registrant or Convicted Felon to vacate the Unit, even if the Registrant or Convicted Felon is the Owner.

17.1.4 Upon the discovery of a Registrant or Convicted Felon occupying a Unit in the Association in violation of this Section 17.1, the Association will use its best efforts to provide the Owner of the Unit the Registrant or Convicted Felon is occupying in violation of this Section 17.1 a written notice sent by first class U.S. Mail to the Owner's last known address, or the last known address on record with the county assessor's office, that the Owner must cause the removal of the Registrant or Convicted Felon from the Owner's Unit within thirty (30) days of the date of the notice.

a. If the Registrant or Convicted Felon is not the Owner of the Unit and has not vacated the Unit within thirty (30) days of the date of the Association's notice, the Owner shall immediately commence eviction proceedings or other legal procedure to have the Registrant or Convicted Felon expelled or removed from the Owner's Unit in the Association. If the Owner fails or refuses to take immediate action to evict or remove the Registrant or Convicted Felon from the Owner's Unit, then the Association has the authority pursuant to this Section 17.1 to act as attorney-in-fact for the Owner and may, on behalf of the Owner, pursue the eviction of the Registrant or Convicted Felon from the Owner's Unit, or take any other legal action against the Registrant or Convicted Felon authorized under the Declaration or Arizona law including, but not limited to, the imposition of monetary penalties against the Owner or seeking an injunction to compel the Owner to evict the Registrant or Convicted Felon.

b. Each Owner hereby appoints the Association as the Owner's attorney-in-fact for the purpose of commencing eviction or legal proceedings involving a Registrant or Convicted Felon residing in or occupying the Owner's Unit, executing any and all documents pertaining to the proceedings or performing any

or all responsibilities as may be required or necessary to be performed pursuant to this Section 17.1.

17.1.5 Owners are prohibited from renting Units to Registrants or Convicted Felons and must comply with all other Association rules and restrictions regarding leasing Units. Any action, requirement, or restriction set forth within this Section 17.1 may be enforced, taken, or pursued by either the Association or any individual Owner. If the Association or any individual Owner pursues any form of legal action to enforce any provision of this Section 17.1 to gain compliance with this provision, the Association or individual Owner shall be entitled to reimbursement of all expenses, including, but not limited to, attorneys' fees and costs, from the Owner in violation of this restriction. If such action is taken by the Association, all expenses of the Association shall also be secured by the Assessment Lien set forth in Section 7 of the Declaration.

17.1.6 If the Association or an Owner becomes aware of a Registrant or Convicted Felon occupying or residing in the Association, then the Association or Owner may, but is not obligated to, send out a notice to the Owners within the Association notifying them of this fact. However, the Association does not promote or condone harassment or intimidation of anyone within the Association, including Registrants or Convicted Felons.

17.1.7 The Association reserves the right to adopt rules and procedures for monitoring Registrants or Convicted Felons, notifying Owners of the presence of Registrants or Convicted Felons in the Association, and enforcing the provisions of this restriction. Since property ownership and sex and violent offender registration information are constantly changing and may not be updated promptly or accurately by those entities required to maintain such information data, the Association is not responsible for any errors or inaccuracies in property ownership or registry information. Nothing in this Section 17.1 shall create an affirmative duty on the Association to monitor or inform Owners of the presence of Registrants or Convicted Felons in the Association, nor does it establish any affirmative duty on the Association to pursue injunctive relief, eviction, or removal of Registrants or Convicted Felons from the Association or enforce any other provision of this Section 17.1. Therefore, the Association shall not be liable to any Owner, Occupant, resident, guest, or other invitee as the result of the Association's failure, or alleged failure, whether negligent, intentional, or otherwise, to monitor for the presence of Registrants or Convicted Felons in the Association, to notify any Owner, Occupant, resident, guest, or other invitee of the presence, residency, or occupancy of Registrants or Convicted Felons in the Association, or to pursue injunctive relief, eviction, or removal of Registrants or Convicted Felons from the Association, or enforce any other provision of this Section 17.1. Owners concerned about the presence of Registrants or Convicted Felons in the Association are charged with the duty and responsibility to regularly monitor on their own all mandatory online registries for such information.

17.1.8 This Section 17.1 shall become effective 30 days after recording in the official records of the Maricopa County Recorder and shall not be applied retroactively to any Registrants or Convicted Felons that permanently reside in or occupy any Unit at the time this First Amendment is recorded. This Section 17.1 shall apply to a Registrant or Convicted Felon who permanently resides in or occupies a Unit at the time this First Amendment is recorded, but ceases to be a resident or occupant for ten (10) consecutive calendar days.

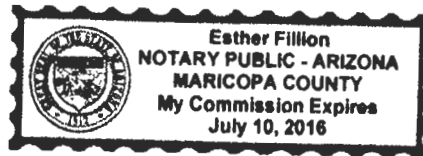
**IN WITNESS WHEREOF**, Circle Tree Owners Association, an Arizona nonprofit corporation, has executed this First Amendment as of the day and year first above written.

**CIRCLE TREE OWNERS ASSOCIATION, INC,**  
an Arizona nonprofit corporation

By: *Erik Lorenzen*  
**President, Circle Tree Owners Association**

By: *Katherine B. Michael*  
**Secretary, Circle Tree Owners Association**

State of Arizona )  
 ) ss.  
County of Maricopa )



SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me this 9TH day of FEBRUARY, 2015, by ERIK LORENZEN, the President and Katherine B. Michael the Secretary of the Circle Tree Owners Association, an Arizona nonprofit corporation, for and on behalf of the corporation.

My Commission Expires:

July 10, 2016

*Esther Fillion*  
Notary Public

